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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/808,966 | 03/25/2004 | Will Shatford | 46834-1200 | 7063 |
| 21611 | 7590 | 02/24/2006 | | |
| SNELL & WILMER LLP 600 ANTON BOULEVARD SUITE 1400 COSTA MESA, CA 92626 | | | EXAMINER POLLICOFF, STEVEN B | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3728 | |

DATE MAILED: 02/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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|------------------------------|--|--|--|
| Office Action Summary | Application No. 10/808,966 | Applicant(s) SHATFORD ET AL. | |
| | Examiner Steven B. Pollicoff | Art Unit 3728 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 16-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of a system for disposing of one or more light bulbs in the reply filed on 12/19/2005 is acknowledged. Accordingly, claims 16-28 have been withdrawn from consideration. However, because Applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Specification

2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: Disposal Tube.

Claim Objections

3. Claim 3 is objected to because of the following informalities: The word "and" in line 1 of the claim is incorrect. For examination purposes examiner will interpret "and" to be "an." Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3,6 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Segrest (U.S. Pat. No. 5,515,971).

As to claim 1, Segrest discloses a cylindrical disposable tube having an open end and an opposing closed end (Segrest Fig. 1 and 2).

As to claims 2 and 6, Segrest disclose that the tube comprises a plastic puncture resistant material (Segrest Column 8, lines 63-67).

As to claim 3, Segrest discloses that the tube further comprises an insert (i.e. desiccant) (Segrest Fig. 3, 29) for absorbing gases released from a broken light bulb (Column 8, lines 42-48).

As to claim 15, Segrest discloses a means for closing the open end (i.e. a cap; see Fig. 2, 24).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 4,5,7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Segrest '971 in view of Cullen (U.S. Pat. No. 5,069,694).

As to claims 4,5,7 and 8, Segrest does not disclose that the tube comprises an insert/desiccant package of sulfur impregnated activated carbon granules or a strip of sulfur impregnated activated carbon paper. However, Cullen discloses a desiccant package of sulfur impregnated activated carbon granules or alternatively an envelope with sheets of carbon loaded paper that can be placed in an environment to protect the contents from harmful gases (Cullen Column 1, lines 36-42; Column 2, lines 47-53; Column 3, lines 23-33). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to substitute the insert/desiccant of Segrest to include a desiccant package or a strip of carbon paper, as taught by Cullen, to better prevent the harmful effects of gases on the contents enclosed in the environment.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Segrest '971 in view of Thrall (U.S. Pat. No. 6,315,448).

As to claim 9, Segrest does not disclose a plastic tube further comprising a paper layer. However, Thrall discloses a multi-layered tube made of plastic and paper layers

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to protect the contents from outside contamination (Thrall Column 6, line 44-49).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the tube of Segrest to include an additional paper layer, as taught by Thrall, for the purpose of safely sealing the contents from contamination.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Segrest '971 in view of Thrall (U.S. Pat. No. 6,315,448) as applied to claim 9 above, and further in view of Lawrence et al., (U.S. Pat. No. 5,553,708).

As to claim 10, while Segrest, as modified above, discloses a tube with a puncture resistant plastic and paper layer, it does not disclose a puncture resistant light mil plastic layer with a heavy paper liner. However, Lawrence discloses a heavy paper liner (Column 4, line 67 and continued on Column 5, lines 1-9) disposed in a light mil plastic bag (Column 4, lines 47-55) to prevent shards of glass from injuring those disposing of used fluorescent tubes. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the tube of Segrest, as modified above, to create a multi-layered tube to include an inner heavy paper liner and an outer light mil plastic layer, as taught by Lawrence, to keep broken glass from injuring people disposing of used fluorescent light bulbs.

Claims 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Segrest '971 in view of Thrall '448 and Lawrence '708 as applied to claim 10 above, and further in view of Cullen '694.

Segrest, as modified above, does not disclose that the tube comprises a desiccant package of sulfur impregnated activated carbon granules, a strip of sulfur

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impregnated activated carbon paper, or a strip of sulfur or sulfur chalk attached to the paper liner. However, Cullen discloses a desiccant package of sulfur impregnated activated carbon granules or alternatively an envelope with sheets of carbon loaded paper that can be placed in an environment to protect the contents from harmful gases (Cullen Column 1, lines 36-42; Column 2, lines 47-53; Column 3, lines 23-33). The teaching also suggests a combination of the various embodiments such that it would be reasonable to have the carbon paper impregnated with sulfur or other absorbents as disclosed in Cullen. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the tube of Segrest, as modified above, to include a desiccant package or a strip of carbon paper lined/impregnated with sulfur or sulfur chalk, as taught by Cullen, to prevent the harmful effects of gases on the contents enclosed in the environment.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Dalton (U.S. Pat. No. 5,542,535) discloses a fluorescent lamp carrier complete with a disposable plastic bag.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven B. Pollicoff whose telephone number is (571)272-7818. The examiner can normally be reached on M-F: 7:30A.M.-4:00P.M.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571)272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

1/23/06
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[Signature]

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JILA M. MOHANDESI
PRIMARY EXAMINER